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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/057,556

01/25/2002

Michael W. Wallace

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06/14/2006

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/057,556

Applicant(s)

WALLACE, MICHAEL W.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 23-March-2006, PROSECUTION IS HEREBY REOPENED. *A new ground of rejection is set forth below.*

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,  
(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Status of the claims: claims 1-19 are pending.

*Charles Rones - C. Rones, SPE 2164*

***Claim Objections***

3. Claims 1, 11, and 14 are objected to because of the following informalities:
4. Claims 1, 11, and 14, all have multiple recitation of the intended use “for” (i.e. selecting for) making the functionality following not carry any patentable weight since it never actually have to take place. Claims should be amended to recite more direct and positive language such as “is” or “selecting” or “that”. Correction is required.

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5. Independent claim 1 initially recites the limitation "a display" in line 2, later on, recites "a display" again in the body of the claim, line 11, making it vague and unclear to the Examiner if a new display is being referenced or if the reference remains to the prior display thereby lacking sufficient antecedent basis for this limitation in the claim.

6. Claim 14, line 5, recite “selected top-level categories” without any indication to whether this is made in reference to “at least two of the top-level” or is it a new selection of top-level categories taking place. Thus, making the reference in line 6, of presenting “said selecting” lacks antecedent basis since its not clear what is being referenced. Correction is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Contois (U.S. Patent No. 5,864,868).

As to claim 1, Contois discloses a method for selecting among multiply-categorized items, comprising:

storing within a memory a list of a plurality of media content items and associated top-level categories, including at least one having associated therewith two or more top-level categories (See column 5, lines 21-27, also see column 9, lines 43-51);

allowing selection under control of the processor by a user of two or more top-level categories from the list of categories stored in memory (See column 5, lines 21-27, also see column 9, lines 43-51);

selecting for presentation to the user under control of the processor in a single compile a sub-list of only those media content items associated with all of the two or more top-level categories selected by the user (See column 5, lines 21-27, also see column 9, lines 43-51); and

presenting to the user on a display the sub-list of selected media content items (See Figure 2).

As to claim 11, Contois discloses comprising the steps of:

presenting on the display a submenu list associated with each of the plurality of media content one or more items (See Figure 6); and

allowing selection by a user of one or more items from the submenu list (See column 4, lines 45-46); and

selecting for presentation to the user a list of only those media content items associated with all of the two or more top-level categories selected by the user that are also associated with the items selected from the submenu list (See column 5, lines 21-27, also see column 9, lines 43-51).

As to claim 12, May et al. discloses wherein the step of allowing selection from the submenu list occurs after the step of allowing selection of the top-level categories (See Figure 6).

As to claim 13, Contois discloses wherein the step of allowing selection of items from the submenu list includes displaying the items to the user, wherein the items displayed is dependent upon the top-level categories selected by the user (See Figure 6).

As to claim 14, Contois discloses a method for selecting for display content of a display screen, the method comprising the steps of:

displaying a list of top-level categories on a display screen (See Figure 2);

selecting at least two of the top-level categories from the list (See column 5, lines 21-27, also see column 9, lines 43-51); and

performing a single compile on the selected top-level categories (See column 5, lines 21-27, also see column 9, lines 43-51); and

presenting on the display screen content responsive to said selecting step (See column 5, lines 21-27, also see column 9, lines 43-51).

As to claim 15, Contois discloses further comprising the steps of:

selecting at least one item from a submenu list (See Figure 2); and

presenting on the display screen data associated with said selected item and said selected top-level categories (See Figure 2).

As to claim 16, Contois discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with **all of** said top-level categories selected from the list (See column 5, lines 21-27, also see column 9, lines 43-51).

As to claim 17, Contois discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with **exactly all** of said top-level categories selected from the list (See column 5, lines 21-27, also see column 9, lines 43-51).

As to claim 18, Contois discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying a list of content associated with **any one** or more top-level categories selected from the list (See Figure 6).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2-3, 5-10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contois (U.S. Patent No. 5,864,868) in view of May et al. (U.S. Patent No. 5,544,354).

As to claim 2, Contois does not teach wherein the top-level categories include "action".

May et al. teaches wherein the top-level categories include "action" (See May et al. figure 1, 2.2.6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "action" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 3, Contois does not teach wherein the top-level categories includes "adventure".

May et al. teaches wherein the top-level categories includes "adventure" (See May et al. figure 1, 2.2.6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "adventure" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 5, Contois does not teach wherein the top-level categories includes "comedy".



May et al. teaches wherein the top-level categories includes "comedy" (See May et al. figure 1, 2.2.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "comedy" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 6, Contois does not teach wherein the top-level categories includes "drama".

May et al. teaches wherein the top-level categories includes "drama" (See May et al. figure 1, 2.2.9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "drama" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 7, Contois does not teach wherein the top-level categories includes "foreign".

May et al. teaches wherein the top-level categories includes "foreign" (See May et al. figure 1D, 2.2.11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-

level categories includes "foreign" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 8, Contois does not teach wherein the top-level categories includes "musical".

May et al. teaches wherein the top-level categories includes "musical" (See May et al. figure 1, 2.2.10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "musical" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 9, Contois does not teach wherein the top-level categories includes "sci-fi".

May et al. teaches wherein the top-level categories includes "sci-fi" (See May et al. figure 1, 2.2.8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "sci-fi" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 10, Contois does not teach wherein the top-level categories includes "romance".

May et al. teaches wherein the top-level categories includes "romance" (See May et al. figure 1, 2.2.12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the top-level categories includes "romance" because it allows for targeted selection and user customization and introduction of viewer discretion, and it is well known in the art that categories can be user defined.

As to claim 19, Contois does not teach wherein the list of top level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi.

May et al. teaches wherein the list of top level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi (See May et al. figure 1D).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Contois by the teaching of May et al. to include wherein the list of top level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi because it allows for targeted selection and user customization and introduction of viewer discretion.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Contois (U.S. Patent No. 5,864,868) in view of Swix et al. (U.S. Patent No. 6,718,551 B1).

As to claim 4, May et al. does not teach wherein the top-level categories includes "adult". Swix et al. teaches wherein the top-level categories includes "adult" (See Swix et al. column 10, lines 40-46, also see Swix et al. figure 3, 302).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified May et al. by the teaching of Swix et al. to include wherein the top-level categories includes "adult" because it allows for targeted selection and user customization and introduction of viewer discretion.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

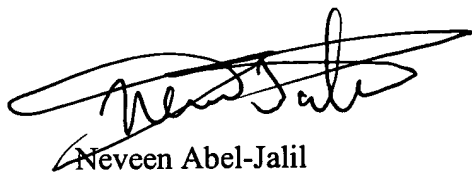
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Neveen Abel-Jalil

June 11, 2006